

House Study Bill 701 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
PUBLIC SAFETY BILL BY
CHAIRPERSON KLEIN)

A BILL FOR

1 An Act relating to the procedural requirements for placing an
2 officer's name on a Brady-Giglio list.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 80F.1, subsection 1, Code 2022, is
2 amended by adding the following new paragraphs:

3 NEW PARAGRAPH. *0a.* "*Brady-Giglio list*" means a list
4 compiled by a prosecuting agency containing the names
5 and details of officers who have sustained incidents of
6 untruthfulness, criminal convictions, candor issues, or some
7 other type of issue which places the officer's credibility into
8 question.

9 NEW PARAGRAPH. *0f.* "*Prosecuting agency*" means the attorney
10 general, an assistant attorney general, the county attorney,
11 an assistant county attorney, a special prosecutor, a city
12 attorney, or an assistant city attorney.

13 Sec. 2. Section 80F.1, subsection 23, paragraph c, Code
14 2022, is amended to read as follows:

15 *c.* This subsection is repealed July 1, ~~2022~~ 2023.

16 Sec. 3. Section 80F.1, Code 2022, is amended by adding the
17 following new subsection:

18 NEW SUBSECTION. 24. *a.* A prosecuting agency that maintains
19 a Brady-Giglio list shall adopt a policy that, at a minimum,
20 includes all of the following:

21 (1) The criteria used by the prosecuting agency to place an
22 officer's name on a Brady-Giglio list.

23 (2) The officer's right to receive written notice at least
24 ten days before the prosecuting agency considers placing the
25 officer's name on a Brady-Giglio list, and the officer's
26 right to provide input to the prosecuting agency before
27 the prosecuting agency makes a determination of whether the
28 officer's name should be placed on a Brady-Giglio list.

29 (3) The duty of the prosecuting agency to provide notice of
30 the prosecuting agency's decision regarding placement of the
31 officer's name on a Brady-Giglio list.

32 (4) The officer's right to make a request for
33 reconsideration of the prosecuting agency's determination to
34 include the officer's name on a Brady-Giglio list and to submit
35 supporting and corroborating documents and evidence in support

1 of the officer's request for reconsideration.

2 (5) The applicable time frame and procedures for notifying
3 the officer of the prosecuting agency's final decision on an
4 officer's request for reconsideration.

5 b. At least ten days before a prosecuting agency considers
6 placing an officer's name on a Brady-Giglio list, the
7 prosecuting agency shall send a written notice by mail or email
8 to the officer's current or last known employment address.
9 Upon receipt of the notice, and if the officer's contact
10 information is known, the officer's current or last known
11 employer shall provide the written notice to the officer.
12 The written notice shall include, at a minimum, all of the
13 following:

14 (1) A notice that the officer's name may be placed on a
15 Brady-Giglio list.

16 (2) The officer's right to request documents, records, and
17 any other evidence in the possession of the prosecuting agency
18 relevant to the determination of whether the officer's name
19 should be placed on a Brady-Giglio list from the prosecuting
20 agency.

21 (3) The officer's right to provide input to the prosecuting
22 agency prior to the prosecuting agency's determination of
23 whether the officer's name should be placed on a Brady-Giglio
24 list.

25 (4) The prosecuting agency's procedural requirements for
26 an officer to provide input to the prosecuting agency prior to
27 the prosecuting agency's determination of whether the officer's
28 name should be placed on a Brady-Giglio list.

29 c. If the prosecuting agency makes a determination to place
30 the officer's name on a Brady-Giglio list, the prosecuting
31 agency shall send a written notice by mail or email to the
32 officer's current or last known employment address. Upon
33 receipt of the notice, and if the officer's contact information
34 is known, the officer's current or last known employer shall
35 provide the written notice to the officer. The written notice

1 shall include, at a minimum, all of the following:

2 (1) The officer's right to make a request to reconsider
3 the allegations and the placement of the officer's name on a
4 Brady-Giglio list.

5 (2) The prosecuting agency's procedural requirements
6 for submitting a written request for reconsideration of the
7 prosecuting agency's determination to place the officer's name
8 on a Brady-Giglio list including the method and time frame for
9 submitting the request for reconsideration and any supporting
10 and corroborating documents and evidence from any pertinent
11 sources.

12 (3) A statement that, if the officer intends to make a
13 request for reconsideration, the officer must submit the
14 written request for reconsideration to the prosecuting agency
15 within ten business days after receiving the notice.

16 *d.* If an officer submits a request for reconsideration
17 pursuant to this subsection and the officer's request
18 for reconsideration is approved by the prosecuting agency
19 on its merits, the officer's name shall be removed from
20 the Brady-Giglio list. If the officer's request for
21 reconsideration is denied by the prosecuting agency, the
22 officer's name shall remain on the Brady-Giglio list. If
23 the officer does not submit a request for reconsideration or
24 fails to comply with the requirements for submitting a request
25 for reconsideration, the officer's name shall remain on the
26 Brady-Giglio list.

27 *e.* An officer whose name was placed on a Brady-Giglio list
28 prior to the effective date of this Act shall have the right to
29 request reconsideration as follows:

30 (1) A prosecuting agency shall notify the officer, within
31 ninety days of the effective date of this Act, and provide the
32 officer with the information required under paragraph "c".

33 (2) Upon receipt of a notification from a prosecuting agency
34 pursuant to subparagraph (1), an officer shall have thirty days
35 to request reconsideration.

1 for notifying the officer of the prosecuting agency's final
2 decision on the officer's request for reconsideration.

3 The bill provides that at least 10 days before a prosecuting
4 agency considers placing an officer's name on a list, the
5 prosecuting agency shall send a written notice by mail or email
6 to the officer's current or last known employment address.
7 If the officer's contact information is known, the officer's
8 current or last known employer shall provide the written
9 notice to the officer. The written notice shall include, at a
10 minimum, all of the following: a notice of possible placement
11 on a list; the officer's right to request relevant materials
12 from the prosecuting agency; the officer's right to provide
13 input to the prosecuting agency; and the prosecuting agency's
14 procedural requirements for an officer to provide input.

15 The bill provides that if the prosecuting agency makes
16 a determination to place the officer's name on a list, the
17 prosecuting agency shall send a written notice by mail or
18 email to the officer's current or last known employment
19 address. If the officer's contact information is known, the
20 officer's current or last known employer shall provide the
21 written notice to the officer. The written notice shall
22 include, at a minimum, all of the following: the officer's
23 right to make a request to reconsider the allegations and
24 the officer's placement on a list, the prosecuting agency's
25 procedural requirements for submitting a written request
26 for reconsideration including the method and time frame for
27 submitting the officer's request for reconsideration and any
28 supporting and corroborating documents and evidence from
29 any pertinent sources, and a statement that if the officer
30 intends to make a request for reconsideration of the officer's
31 placement on a list the officer must submit the written
32 request for reconsideration to the prosecuting agency within 10
33 business days after receiving the notice.

34 The bill provides that if an officer submits a request for
35 reconsideration and the officer's request for reconsideration

1 is approved by the prosecuting agency on its merits, the
2 officer's name shall be removed from the list. If the
3 officer's request for reconsideration is denied by the
4 prosecuting agency, the officer's name shall remain on
5 the list. If an officer does not submit a request for
6 reconsideration or fails to comply with the requirements for
7 submitting a request for reconsideration, the officer's name
8 shall remain on the list.

9 The bill provides that an officer whose name was placed on a
10 list prior to the effective date of the bill has the right to
11 request reconsideration as follows: a prosecuting agency shall
12 notify an officer whose name was placed on a list prior to the
13 effective date of the bill, within 90 days of the effective
14 date of the bill, and provide the officer with the information
15 required in the bill; and upon receipt of notification from a
16 prosecuting agency, an officer receiving notice shall have 30
17 days to request reconsideration.

18 The bill does not limit the duty of a prosecuting agency
19 to produce Brady-Giglio discovery evidence in all cases
20 as required by the Constitution of the United States,
21 the Constitution of the State of Iowa, and the Iowa rules
22 of criminal procedure, and does not limit or restrict a
23 prosecuting agency's ability to remove an officer's name
24 from a list if, upon receipt of additional supporting and
25 corroborating information or a change in factual circumstances
26 at any time, the prosecuting agency determines that the
27 officer's name no longer requires placement on a list.

28 The bill defines "Brady-Giglio list" as a list compiled
29 by a prosecuting agency containing the names and details of
30 officers who have sustained incidents of untruthfulness,
31 criminal convictions, candor issues, or some other type of
32 issue which places the officer's credibility into question.
33 "Prosecuting agency" is defined as the attorney general, an
34 assistant attorney general, the county attorney, an assistant
35 county attorney, a special prosecutor, a city attorney, or an

1 assistant city attorney.

2 The bill extends the repeal of Code section 80F.1(23)
3 relating to the prohibition against the discharge, discipline,
4 or threatened discharge of an officer solely due to a
5 prosecuting attorney making a determination or disclosure that
6 exculpatory evidence exists concerning the officer.

7 The bill is repealed July 1, 2023.